



COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
NORTHEAST REGIONAL OFFICE

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Secretary

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March 30, 2010

Mr. William Thibeault
New Ventures Associates, LLC
85-87 Boston Street
Everett, Massachusetts 02149

Re: NEWBURYPORT – Solid Waste/COR
Crow Lane Landfill
FMF # 39545
Paragraph 27 Notice
Noncompliance with Final Judgment

Richard A. Nylen Jr, Attorney at Law
Lynch, DeSimone & Nylen, LLP
12 Post Office Square
Boston, MA 02109

Dear Mr. Thibeault and Mr. Nylen:

The Massachusetts Department of Environmental Protection ("MassDEP") has determined that New Ventures Associates, LLC ("New Ventures") is in noncompliance with the requirements of the Settlement Agreement and Final Judgment in *Commonwealth v. New Ventures Associates, LLC*, Suffolk Superior Court C.A. 06-0790 C, as amended by Orders of the court on May 27, 2009 and October 7, 2009 (the "Final Judgment") for completing closure of the Crow Lane Landfill (the "Landfill") in Newburyport, Massachusetts including, without limitation the requirements described below. This determination is based in part on observations at the Landfill on March 29 and 30, 2010, by MassDEP's consultant, Shaw Environmental, Inc. of Salem, New Hampshire, along with MassDEP's review of information provided by New Ventures and of MassDEP's files.

1. New Ventures continues to fail to take adequate actions and implement the measures necessary to operate the landfill gas pretreatment system in compliance with the requirements of the Final Judgment and the requirements of 310 CMR 7.00, the Air Pollution Control Regulations and 310 CMR 19.000, the Solid Waste Regulations. On Monday, March 29, 2010 and Tuesday, March 30, 2010, Shaw personnel observed that during four (4) separate hourly sampling events the outlet concentration of hydrogen sulfide ("H₂S") from the landfill gas pretreatment system exceeded 1.01 lbs/hr and/or that the pretreatment system was removing less than 95% of the H₂S from the landfill gas. Appendix B of the Settlement Agreement and Final Judgment requires that the maximum outlet concentration of H₂S from the pretreatment system shall not exceed 1.01 lb/hr and that the pretreatment system remove a minimum of 95% of the H₂S. MassDEP has previously notified New Ventures on repeated occasions, as recently as February 19, 2010, of its failure to operate the

pretreatment system in accordance with these performance standards of Appendix B and the requirements of 310 CMR 7.00 and 310 CMR 19.000.

2. New Ventures continues to fail to take the actions and measures necessary to minimize the infiltration of ambient air into the landfill gas pre-treatment system as consistently and repeatedly observed and reported to New Ventures by Shaw personnel including, without limitation on March 29 and 30, 2010.
3. New Ventures has failed to take the actions necessary to control the release of leachate from the Landfill including, without limitation, the discharge of noxious and odiferous leachate, which has ranged in color from gray to black, from the outlet of the discharge pipe from storm water basin no. 1, observed most recently by Shaw personnel on March 29 and 30, 2010. These actions include, without limitation New Ventures failure to repair and replace the FML that blew off of the Landfill on or about February 25, 2010. Failure to repair and replace the FML has allowed the infiltration of precipitation into the Landfill that otherwise would have been prevented by the FML, contributing to the increased generation of leachate and landfill gas.
4. New Ventures continues to fail to take the actions and measures necessary to minimize the infiltration of ambient air into the landfill gas pre-treatment system as consistently and repeatedly observed and reported to New Ventures by Shaw personnel including, without limitation on March 29 and 30, 2010.
5. New Ventures has failed to submit to MassDEP the results of the Flare Inlet Sample(s) required by Appendix I Section E.4 of the Final Judgment. and
6. New Ventures has failed to completely cover and maintain coverage of the upper portion of the landfill access road with low permeability material, thereby contributing to the infiltration of precipitation into the Landfill and the creation of noxious and odiferous leachate and landfill gas.

Paragraph 27 of the Final Judgment states, in part:

“The Department and its contractors shall have the right to access the Site at any time and without notice to: respond to odor complaints; conduct inspections; take air quality readings, leachate samples, or other samples; secure the continued installation and full operation of the LFG Pretreatment System in the event that the LFG Pretreatment System has been removed, disabled, or otherwise fails, or if New Ventures has abandoned or stopped operating the LFG Pretreatment System; secure the continued installation and full operation of the enclosed flare, including, without limitation, all piping, gas collection systems, propane tanks, and other components required to operate the enclosed flare; and otherwise inspect the Site or monitor activity to ensure compliance with all terms, conditions, and requirements of this Final Judgment and the Settlement Agreement, as well as with any other applicable administrative enforcement orders issued by the Department. The Department and its contractors shall have the right to access the Site at any time and without notice to take actions necessary to control leachate releases, pump leachate tanks, remove leachate released to wetlands, and otherwise correct any leachate management violations if New Ventures has not returned to full compliance with the leachate management requirements of Appendix E to the Settlement Agreement, Leachate Control Plan, within seventy-two (72) hours of notice from the Department. The Department and its contractors shall also, within seventy-two (72) hours of notice

by the Department, have the right to access the Site at any time to take actions necessary to: (i) assure that the landfill gas system, including, without limitation, the LFG Pre-treatment System, the enclosed flare, and gas collection system, is operating in full compliance with the performance standards in Appendix B to the Settlement Agreement; (ii) patch, repair, or extrusion weld any FML rips, tears, seam openings or other damage; (iii) cover, patch, or otherwise mitigate any breakouts of hydrogen sulfide or other Landfill gases from the Landfill surface; or (iv) place cover over Active or Inactive Areas of the Landfill in order to assure compliance with the requirements of Sections B and C of Appendix C to the Settlement Agreement, Landfill Cover Protocol. The Department also retains all rights of access to the Site under applicable state and federal law."

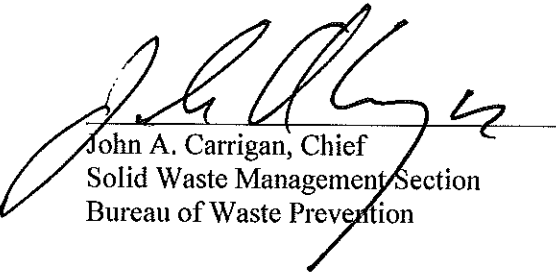
New Ventures is not in full compliance with the requirements of the Final Judgment and this Notice for reasons including, but not limited to, the foregoing violations. New Ventures must return to full compliance with the Final Judgment.

MassDEP reserves its right, pursuant to paragraph 27 of the Final Judgment, to, without limitation, enter the Landfill at any time with its contractor(s) to assure the operation of the landfill gas system, including the landfill gas pretreatment, in full compliance with the performance standards of Appendix B; and to take the actions necessary to control leachate releases from the Landfill. Pursuant to paragraph 6(a) of the Corrective Action Standby Trust Agreement, MassDEP reserves the right to draw funds against the Trust Fund Property for any actions conducted by MassDEP pursuant to paragraph 27 of the Final Judgment upon notification to the Trustee as required by the Trust Agreement and 310 C.M.R. 19.051.

This notice is provided by email pursuant to Section 26 of the Final Judgment and by certified mail.

Please feel free to have your attorney contact Assistant Attorney General, Matthew Ireland at (617) 727-2200, if you have any questions regarding this notice.

Sincerely,



John A. Carrigan, Chief
Solid Waste Management Section
Bureau of Waste Prevention

CERTIFIED MAIL: 7009 2250 0001 5077 6180 (Thibeault)
 7009 2250 0001 5077 6197 (Nysten)

CC: Mayor Donna Holaday
 60 Pleasant Street
 Newburyport, MA 01950

Health Department
60 Pleasant Street
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Michael Quatromoni
SITEC Environmental, Inc
769 Plain Street - Unit C
Marshfield, MA 02050

Michael Dingle, MassDEP/OGC-Boston (by email)

Matthew Ireland, Office of the Attorney General, Boston, MA (by email)